

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 22-cr-303 (ECW/DJF)

Plaintiff,

v.

ORDER

Raphael Raymond Nunn,

Defendant.

This matter is before the Court on the parties' motions for discovery, disclosure and other nondispositive relief. On March 9, 2023, the Court held a hearing (ECF No. 43) on these motions, Defendant's Pretrial Motion for Severance of Counts ("Motion for Severance") (ECF No. 38), and Defendant's Pretrial Motion for Suppression of Defendant's Statements ("Motion for Suppression") (ECF No. 39). The Court will address the Motion for Severance and Motion for Suppression in a separate order and report and recommendation after the parties file post-hearing briefings on those motions. At the motions hearing, the parties waived additional argument on their other motions for nondispositive relief. Based on the statements at the hearing, the parties' written submissions, and on the entire file, the Court enters the following Order.

I. The Government's Motion for Discovery (ECF No. [17])

The Government seeks discovery and disclosure as required by Rules 12.1, 12.2, 12.3, 16(b) and 26.2 of the Federal Rules of Criminal Procedure. The Government's motion is **GRANTED** insofar as Mr. Nunn shall provide discovery to the extent required by the applicable Rules. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Initial expert disclosures: 28 days prior to trial.
- b. Rebuttal expert disclosures: 14 days prior to trial.

II. Defendant's Pretrial Motion for Disclosure of Grand Jury Minutes and Transcript (ECF No. [36])

Mr. Nunn's Pretrial Motion for Disclosure of Grand Jury Minutes and Transcript is **GRANTED IN PART**. The Government shall disclose grand jury transcripts to the extent required by the Jencks Act, 18 U.S.C. § 3500, or *Brady v. Maryland*. Mr. Nunn's motion is otherwise **DENIED**.

III. Defendant's Pretrial Motion for Disclosure of Electronic Surveillance and Wiretapping (ECF No. [37])

Mr. Nunn's Motion for Disclosure of Electronic Surveillance and Wiretapping is **DENIED AS MOOT**. Mr. Nunn seeks disclosure of all "logs, records, memoranda, and all other documents or recordings of electronic surveillance or wiretapping" from the Government (ECF No. 37). The Government represents that, to the extent Mr. Nunn considers the GPS warrant for his cell phone electronic surveillance, the warrant underlying that surveillance and the related reports of electronic surveillance were already disclosed. It is otherwise not aware of electronic surveillance or wiretaps used in connection with this matter. Accepting the Government's representations to the Court and Defendant as true, this motion is therefore moot. If, however, the Government subsequently obtains additional electronic surveillance or wiretapping evidence, it shall produce that evidence as soon as practicable.

IV. Defendant's Pretrial Motion for Discovery and Inspection (ECF No. [40])

Mr. Nunn's motion is **GRANTED** insofar as the Government shall provide discovery to the extent required by Rules 16 and 26.2 of the Federal Rules of Civil Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), the Jencks Act, 18 U.S.C. § 3500, and all other applicable statutory

and constitutional rules. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Initial expert disclosures: 28 days prior to trial.
- b. Rebuttal expert disclosures: 14 days prior to trial.

SO ORDERED.

Dated: March 9, 2023

s/ Dulce J. Foster

Dulce J. Foster
United States Magistrate Judge